



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING DISTRICT OFFICE



KEITH CREAGH
DIRECTOR

June 24, 2016

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. John Wagner
Director of Health, Safety, & Environmental Affairs
Diamond Chrome Plating
604 South Michigan Avenue
P.O. Box 557
Howell, Michigan 48844

Dear Mr. Wagner:

SUBJECT: Hazardous Waste Violation Notice (VN)
Diamond Chrome Plating (DCP), Site ID # MID 005 344 973;
Hazardous Waste Management Plan (HWMP) Denial,
Approval of the Revised Chemical Compatibility Study (Revised CCS);
First Amended Consent Decree (FACD);
Ingham County Circuit Court Docket No. 03-1862-CE;

On March 21, 2016, the Department of Environmental Quality (DEQ) issued a multi-media VN, and Information Request to DCP. The information request from the DEQ, Office of Waste Management and Radiological Protection (OWMRP), provided additional opportunity for DCP to submit information, in regards to the September 9, 2015, inspection. This correspondence is in regard to specific hazardous waste issues. The OWMRP conducted a review of the hazardous waste information in the April 22, 2016, and May 6, 2016, Response Letters (RLs) and the November 25, 2015, HWMP submitted by DCP, to evaluate compliance with Part 111, Hazardous Waste Management; Part 121, Liquid Industrial Wastes of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA); the corresponding requirements under Subtitle C of the federal Resource Conservation and Recovery Act of 1976, as amended (RCRA); any administrative rules or regulations promulgated pursuant to these acts; and the 2015 FACD.

As a result of these reviews, DEQ staff determined the following;

- A. CCS: Based upon a review of DCP's Revised CCS, submitted on May 6, 2016, DCP indicated that the concentration of chromic acid and other wastes contained on-site are low enough to be compatible with the containment devices used. Furthermore, in the Revised CCS, DCP indicated that coupons of liners are used to help judge the long term chemical breakdown of liners. Based upon the

revised information provided, the DEQ hereby approves the Revised CCS, submitted on May 6, 2016. DCP's Revised CCS does show that concentrations of chromic acid above 50%, for example, can cause failure of the polyvinyl liner. Please note that concentrations of wastes above those stated in the Revised CCS should be carefully monitored and re-evaluation is necessary when waste characteristics change.

B. DENIAL OF HWMP – On June 10, 2016, OWMRP staff reviewed DCP's, November 25, 2015, HWMP, submitted under the FACD. The OWMRP determined that the HWMP is insufficient, and it is hereby denied. Attachment 1 provides a list of the deficiencies. Under Section 14.3 of the FACD, DCP should submit a revised HWMP within 30 days, however, due to the extensive deficiencies, the DEQ is requesting submittal by August 15, 2016.

C. FAILURE TO CHARACTERIZE HAZARDOUS WASTE – A person who generates a solid waste must determine if that waste is a hazardous waste (Part 111, Rule 302 & Title 40 of the Code of Federal Regulations (CFR), Section 262.11). Large Quantity Generators are required to properly manage all additional hazardous wastes that are generated, even if it is only one pound of hazardous waste. Therefore, sampling procedures for contaminated waste must include discrete samples, of the highest levels of contamination, to determine if the most contaminated portions of the waste are hazardous waste. Section 9.1 of the FACD, requires DCP to conduct "all sampling" in accordance with DCP's March 12, 2012, Quality Assurance Project Plan (QAPP) as specified in Paragraph 6.3, which states in part,

"Defendant shall utilize the recommended sampling methods, analytical methods, and analytical detection levels specified in the RRD Operational Memorandum No. 2, Sampling and Analytical Guidance, dated October 22, 2004, including all applicable attachments. Defendant shall utilize the MDEQ 2002 Sampling Strategies and Statistics Training Materials for Part 201 Cleanup Criteria (S3TM) to determine the number of samples required to verify the cleanup and to determine sampling strategy."

DCP failed to follow the S3TM guidance. Specifically, during the September 9, 2015, inspection, DEQ staff indicated that there are clearly visual stains (green, brown, and yellow) on portions of the concrete. The concrete furthest from the chromic acid tanks was relatively clean, but the concrete near the former hazardous waste management unit and the current chromic acid tank were saturated with green, yellow, and brown contaminants (known hazardous waste constituents). During the September 9, 2015, inspection, DEQ said that DCP must analyze the most contaminated concrete separately, as a "hot spot". DCP staff refused, saying that it would be "cherry picking" to analyze the contaminated area. Instead, DCP staff indicated that they mixed the non-contaminated concrete with some of the contaminated stuff, into a composite sampling, and that they were sure that would pass the standard. DEQ staff repeated that diluting contaminated waste for sampling is strictly prohibited by RCRA and

Part 111. Furthermore, based upon a review of the FACD, discrete sampling of hot spots is required by S3TM guidance. Section 3.2, Comparing Characterization Data to Regulatory Thresholds Using Statistics, states in part,

“Hot Spots must be characterized separately”

S3TM also requires at least 3-4 samples for 20 yards of waste, and DCP only collected one composite. S3TM, Section 2.1, Biased Sampling states that,

“Compositing of samples is not accepted without prior DEQ approval.”

DCP failed to get approval from the DEQ to composite samples, failed to take an adequate number of samples, and failed to sample the hot spot separately. DEQ OWMRP staff were on-site at DCP on September 9, 2015, and provided guidance as to how to do appropriate sampling, while collecting a sample and offering a split sample, but DCP refused.

In DCP's May 6, 2016, response letter, Item A, DCP alleged that “no fluctuation” was expected, which is false, as indicated in DCP's own statement, which describes “many stained pieces” were mixed into the sample. DEQ staff collected photographic evidence and samples that prove there was a hot spot of contamination, which saturated through part of the concrete, while the opposite end of the excavation did not appear to have visible contamination. DCP also specifically stated that they avoided intentionally selecting a sample, based upon a particular characteristic. This violates the “biased sampling” requirement for hotspots. Both of the DEQ's concrete samples exceeded the hazardous waste limits, for the Toxicity Characterization Leaching Procedure (TCLP) test. The DEQ determined that the concrete samples exceeded the hazardous waste thresholds, with TCLP results of 39.8 milligrams per liter (mg/L) and 66.1 mg/L (the standard is 5 mg/L). The DEQ also sampled contaminated soil from the excavation area and determined that the soil had total chrome concentrations of 97 mg/L and 800 mg/L, confirming that hazardous waste constituents were uncovered by this excavation & demolition.

DCP's diluted composite sample TCLP result was 2.6 mg/L for chrome, indicating that even the diluted sample was near the hazardous waste limit of 5mg/L. DCP, indicated that they were not comfortable disposing of this waste as non-hazardous, since this result was so close to the hazardous waste standard. Prior to getting their sample result, DCP had already shipped the waste off-site using a concrete demolition company, on September 8, 2015, which triggered the following violations:

1. TRANSPORTATION BY AN UNLICENSED HAULER – Generators must contract with a transporter properly registered &/or permitted under Act 138, Section 2(3), (Part 111 Rule 304(1)(c) and Part 111, Section 11138(1)(c)). DCP had the concrete demolition company remove debris contaminated

with chromium, on September 8, 2015. DCP had not received results of the chromium toxicity test. DEQ determined that the contaminated concrete waste was a hazardous waste, and using an unlicensed transporter violates Part 111, Rule 304(c) and Part 111, Section 11138(1)(c).

2. HAZARDOUS WASTE ACCUMULATED TO PREVENT RELEASE – Hazardous waste must be accumulated so no hazardous waste constituent can escape by gravity into the soil, directly or indirectly, into surface water, groundwater, drains or sewers, and such that fugitive emissions do not violate Act 451, Part 55, Air Pollution Control (Part 111, Rule 306(1)(f)). On September 8, 2015, DCP shipped hazardous waste soil and concrete debris on the back of an open top truck, un-containerized and unprotected from the weather.
3. MANIFEST REQUIREMENTS – A Hazardous Waste Manifest must be prepared by the generator of hazardous waste for transportation off-site (Part 111, Rule 304(1)(b); Part 111, Section 11138(d) and (e); and 40 CFR, Sections 262.20 and 262.23). DCP failed to prepare a manifest for the hazardous waste removed by the concrete company on September 8, 2015.
4. SHIPMENT TO AN UNLICENSED STORAGE FACILITY – During the September 9, 2015, inspection, DCP indicated that they had the contaminated concrete waste and soil, contaminated with hazardous waste constituents, hauled away by the concrete contractor. DCP was not sure where the waste went and where it was being stored. On September 9, 2015, DEQ staff spoke to Mr. Mike Leach, of the concrete demolition company, and he indicated that the waste was stored on his truck, which was currently located in his garage. He indicated that he would return the waste to DCP. Based upon DCP and the DEQ's analytical results, this waste was a hazardous waste. Shipment to, and storage of, the hazardous waste to a facility not licensed to accept hazardous waste violates Part 111, Rule 304(1)(b) and 40 CFR, Section 262.20(a)(i).
5. LAND DISPOSAL RESTRICTIONS (LDR) – DCP failed to provide LDRs to the concrete demolition company, which removed the waste on September 8, 2015. This violates Part 111, Rule 311(1) and 40 CFR, Section 268.7.
6. PRE-TRANSPORT HAZARDOUS WASTE LABELING – Before transporting hazardous waste or offering it for transportation off-site, the facility must package the waste in accordance with United States Department of Transportation (U.S. DOT) regulations (Part 111, Rule 305(1)(a), (b), (c), and (d); & 40 CFR, Sections 262.30 and 262.32)). Hazardous waste containers offered for transport must be marked and labeled according to 49 CFR, Section 172.

- a. On containers of less than 110 gallons the following information must be displayed: A) "HAZARDOUS WASTE-FEDERAL LAW PROHIBITS IMPROPER DISPOSAL,"
- b. B) Generator name and address,
- c. C) Manifest document number, and
- d. D) Hazardous waste identification number.

On September 8, 2015, these packaging and labeling requirements were violated.

7. EXPOSURE TO HAZARDOUS WASTE CONSTITUENTS – DCP did not inform the concrete demolition company that they were removing and handling a hazardous waste. This violates Part 111, Rule 306(1)(d) and 40 CFR, Section 265.31.

During a September 10, 2015, telephone conversation, Mr. John Wagner indicated that DCP had the contaminated concrete demolition debris stored in a roll-off box on site. Mr. Wagner indicated that DCP planned to send the concrete demolition debris to a hazardous waste landfill, but as "non-hazardous waste". The DEQ OWMRP project coordinator, Mr. Bryan Grochowski, told Mr. Wagner, that the waste should be managed as hazardous waste because DCP's sample was diluted and even with dilution, it nearly failed the hazardous waste test. Furthermore, the DEQ sample results are not complete yet, and they may prove that the concrete is hazardous waste. Mr. Wagner refused to comply with shipping the waste and disposing of the contaminated concrete as hazardous waste, and did not want to wait for the DEQ results. Immediately after that conversation, the DEQ, OWMRP, provided written guidance documented in an e-mail (attached) dated September 11, 2015. The written and verbal warning both indicated that failure to dispose of the waste as hazardous waste could trigger, "serious violations of RCRA and Part 111, as well as the (FACD)". On September 14, 2015, DCP provided a follow-up e-mail, indicating that based upon DEQ's concerns, the contaminated concrete waste would be disposed of as Hazardous Waste.

During the November 2, 2015, follow-up inspection, DEQ OWMRP staff observed manifest #010 686 660 JJK, dated September 16, 2015, which DCP indicated was used to ship the hazardous waste concrete debris. This manifest indicates that DCP shipped the contaminated concrete as "Non-Regulated Material" (non-hazardous), despite DCP's September 14, 2015, written statement that it would be disposed of as hazardous waste. OWMRP staff also observed waste characterization information, based upon the diluted sampling, provided to the disposal facility, Wayne Disposal, indicating that the waste was non-hazardous, signed by Mr. Wagner, on behalf of DCP.

DEQ staff contacted Wayne Disposal, in Belleville, Michigan, to inquire about the disposal of DCP's hazardous waste concrete. On November 10, 2015, Environmental Health and Safety Manager, Ms. Sylvia Scott, verified that DCP's hazardous waste was disposed as non-hazardous, and that the hazardous waste concrete debris was not managed as hazardous waste. She verified that the waste was not treated properly, to meet the Part 111 and RCRA LDR standards, because DCP provided a written waste

characterization, dated September 10, 2015, indicating that it was "non-regulated material". Failure to characterize and manage the contaminated concrete as hazardous waste triggered the following violations:

D. FAILURE TO PROVIDE ADEQUATE HAZARDOUS WASTE DETERMINATION RECORDS – Part 111, Rule 307(2), A generator who is requested by the director to submit evaluation results shall provide the required information within 30 days after receipt of the request. The records shall include all of the following information:

- a. The type of waste and the source or process from which it was produced.

DCP failed to include that the waste concrete included contaminated concrete, directly adjacent to a Hazardous Waste Management Unit and an active chromic acid tank.

- b. The chemical composition of the waste and the anticipated fluctuations in its chemical composition.

DCP indicated that "no fluctuation was expected", which is a clear misrepresentation of the facts. DEQ staff documented statements from DCP staff indicating that they did not sample the most contaminated waste on purpose. DEQ staff also obtained photos and took samples which prove that there was clearly a hot spot contaminated with hazardous waste, stained yellow, green, and brown.

- c. If tests were conducted in the evaluation, all of the following information shall be included:

- i. The sampling procedure and the reasons for determining that the sample is representative of the waste.

DCP failed to provide sufficient information. There is no distinction between the hot spot and the non-contaminated waste. DCP diluted and/or treated the hazardous waste by mixing it with non-contaminated waste, and attempted to call that representative. DEQ samples prove that a hot spot of contamination was present, and that the DCP sampling did not characterize the waste adequately. DCP indicated that "many pieces" of contaminated concrete were part of the sample mixed with the non-contaminated pieces, but did not provide the number of samples, the size of the samples, or how they were composited.

- ii. The results of all tests conducted.

DCP provided one result that was diluted by multiple samples from non-contaminated waste, which still nearly failed the hazardous waste TCLP, and multiple samples should have been collected, including discrete samples from the Hot Spot of contamination.

iii. The accuracy and the precision of any tests conducted.

DCP indicated that the waste didn't have any fluctuations, but DEQ samples and photos prove otherwise.

E. Mismanagement of Hazardous Waste – Due to DCP's failure to characterize the waste a second time, the DEQ OWMRP determined that DCP mismanaged the hazardous waste a second time, in violation of the FACD, Part 111, and RCRA. The following violations apply:

1. HAZARDOUS WASTE MANIFEST – On November 2, 2015, the DEQ conducted a follow-up inspection to verify that DCP disposed of the contaminated debris as hazardous waste. DEQ staff obtained a copy of manifest #010 585 660 JJK, dated September 16, 2015, showing that the waste was shipped as "Non-Hazardous". Failure to ship the waste as hazardous waste violates Part 111, Rule 304(1)(b); Part 111, Section 11138(d) and (e); and 40 CFR, Sections 262.20 and 262.23.
2. FAILURE TO NOTIFY OF LDR PROHIBITION – A restricted hazardous waste, which exceeded established treatment standards or prohibitions, shall have a notice accompanying each shipment of the waste off-site (Part 111, Rule 311(1) & 40 CFR, Section 268.7(a)(1)). Based upon the manifest obtained on November 2, 2015, DEQ staff determined that DCP failed to determine and notify the landfill that the hazardous waste concrete debris was prohibited from Land Disposal.
3. UNDERLYING HAZARDOUS WASTE CONSTITUENTS – Generators must provide a LDR notice which includes: (Part 111, Rule 311(1) & 40 CFR, Sections 268.7(a)(1)(i-v) or 268.7(a)(2)(i)(A-D) or 268.7(a)(3)(i-iv):
 - a. The United States Environmental Protection Agency hazardous waste number.
 - b. Whether the waste is a wastewater or non-wastewater as defined in 40 CFR, Section 268.2(d) & (f).
 - c. The subcategory of the waste (such as D003 reactive cyanide).
 - d. The manifest number associated with the shipment.
 - e. The waste analysis data, where available.
 - f. The waste constituents that the treater will monitor, if monitoring will not include all regulated constituents, for F001 – F005, F039, D001, D002, D012-D043. UNLESS the generator/treater correctly claims in the same notice, they are going to monitor for ALL regulated

constituents in the waste in lieu of the generator (40 CFR, Section 268.7(a)(1)(ii)).

- g. The underlying hazardous waste constituents (except vanadium and zinc), reasonably expected to be present at the generation point, above underground storage tank standards for D001, D002 and TCLP organics (40 CFR, Section 268.48).

DCP failed to include the hazardous waste number and the underlying hazardous waste constituents required to be treated.

4. DILUTION PROHIBITED - A facility cannot dilute hazardous waste or treatment residue of a hazardous waste to avoid prohibition under 40 CFR, Section 268 (Part 111, Rule 311(1) & 40 CFR 268.3(a)). Furthermore, if wastes are mixed, then the most stringent standards must be selected (Part 111, Rule 311(1) and 40 CFR, Section 268.40). Dilution of the contaminated debris violates Part 111, Rule 311(1) and 40 CFR, Section 268.3(a).
5. FAILURE TO MINIMIZE THE AMOUNT OF HAZARDOUS WASTE GENERATED - Waste Minimization Certification is required for every hazardous waste shipment. During the September 9, 2015, inspection, DCP staff indicated that some concrete was not contaminated, but DCP mixed the contaminated concrete with the non-contaminated concrete. Failure to segregate the non-contaminated debris and reduce the volume of hazardous waste violates Part 111, Rule 304 and 40 CFR, Section 262.27.
6. FAILURE TO CONTAINERIZE, CLOSE, AND LABEL HAZARDOUS WASTE CONTAINER - DCP failed to implement container management requirements for the hazardous waste concrete, on September 10, 2015, resulting in the following violations:
 - a. Containers must have an accumulation date which is clearly visible. (Part 111, Rule 306(1)(b) and 40 CFR, Section 262.34(a)(2))
 - b. Containers must have the words "Hazardous Waste". (Part 111, Rule 306(1)(c) and 40 CFR, Section 262.34(a)(3))
 - c. Containers must be labeled with hazardous waste codes. (Part 111, Rule 306(1) and 40 CFR, Section 262.34(a)(3))
 - d. Containers must be stored closed. (Part 111, Rule 306 and 40 CFR, Section 265.173(a))
 - e. Before transporting hazardous waste or offering it for transportation off-site, the facility must package the waste in accordance with U.S. DOT regulations (Part 111, Rule 305(1)(a) & 40 CFR, Sections 262.30 and 262.32)). Hazardous waste containers offered for transport must be marked and labeled according to 49 CFR, Section 172. On containers of less than 110 gallons the following information must be displayed: A) "HAZARDOUS WASTE-FEDERAL LAW PROHIBITS IMPROPER DISPOSAL"; B) Generator name and address;

C) Manifest document number; and D) Hazardous waste identification number.

F. HAZARDOUS WASTE TRAINING – (Part 111, Rule 306(1)(d) and 40 CFR, Sections 262.34(a)(4) and 265.16) Based upon DCP's numerous hazardous waste management violations, including the following, DCP staff are not adequately trained:

- a. Failure to properly sample and characterize debris with hazardous waste constituents.
- b. Allowing transportation off-site, of debris contaminated with hazardous waste constituents, by an unlicensed hauler prior to receiving sample results to determine if it was hazardous waste.
- c. Failure to recognize that "disposal as hazardous waste" includes labeling the manifest as hazardous waste and providing a LDR notice to the disposal facility which triggers hazardous waste treatment to meet the LDR standards prior to land disposal.
- d. Failure to know the sampling and notification procedures under the FACD.

DCP must provide documentation of hazardous waste training, sufficient to meet the hazardous waste requirements.

G. HAZARDOUS WASTE GENERATED OFF-SITE – DCP's May 6, 2016, letter indicated that hundreds of gallons of hazardous waste was generated off-site, at the chiropractor office, and that DCP transported the hazardous waste down public roads. When purging a well for sampling or to start the well, there are specific procedures for managing the waste. For times when a test is run, such as a draw down or other pumping generating hundreds of gallons of hazardous waste, then normal hazardous waste requirements apply. In most cases, during remediation work, a tank or containers are temporarily stored on-site, usually inside secondary containment, protected from the weather and vandals, until it is hauled by a licensed hauler.

On three occasions, November 2, 5, and 6, 2015, DCP conducted a "draw down" pump test of a monitoring well known to contain hazardous waste levels of chromium in the groundwater. DCP generated hundreds of gallons of chromium hazardous waste each time, and transported the waste on public roads.

- a. TRANSPORTATION BY AN UNLICENSED HAULER – Generators must contract with a transporter properly registered &/or permitted under Act 138, Sec. 2(3). (Part 111 Rule 304(1)(c) and Part 111, Section 11138(1)(c)). This violates Part 111, Rule 304(c) and Part 111, Section 11138(1)(c).

- b. PRE-TRANSPORT HAZARDOUS WASTE LABELING – Before transporting hazardous waste or offering it for transportation off-site, the facility must package the waste in accordance with U.S. DOT regulations (Part 111, Rule 305(1)(a), (b), (c), and (d); & 40 CFR, Section 262.30 and 262.32)). Hazardous waste containers offered for transport must be marked and labeled according to 49 CFR, Section 172.

Please contact the DEQ OWMRP project manager or the Remediation and Redevelopment project manager to determine legal and safe methods to handle the hazardous waste generated from remediation and/or draw down tests such as this.

- H. HAZARDOUS WASTE TANKS – Based upon a review of DCP's November 25, 2015 HWMP, DCP has been using the secondary containment pits, lined with vinyl, as primary containment for hazardous waste. Specifically, DCP has been storing hazardous waste in collection pits. This meets the Definition of a Hazardous Waste Tank. 40 CFR, Section 260.10 defines:

"Tank means a stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of non-earthen materials. (e.g., wood, concrete, steel, plastic) which provide structural support."

On pages 1 and 2 of DCP's HWMP, it states that

"Levels (of chromic acid, hazardous wastes, etc.) are monitored and recorded by the Waste Treatment Technician... Priority of pumping is determined based upon pit levels, maintenance and cleanout schedules and production needs to drain rinse tanks."

DCP's pits are being used to accumulate and store hazardous waste, including storage overnight. If DCP provides an automatic pump out system to another hazardous waste tank, or the wastewater treatment system, then DCP may be able to qualify for an exemption. Based upon a review of the historic file, DCP has previously claimed that the pits are not tanks, but based upon this review, inadequate information was provided to demonstrate an exemption. The pits are storing waste, and historically the liner has failed in at least one tank. The failed liner was not addressed in a timely manner because there is no secondary containment and/or leak detection. File photos showed degradation and staining of concrete blocks, including likely direct discharge to the environment before the repair was made. Storage in these pits without meeting the Hazardous Waste Tank requirements violates Part 111 and RCRA. Specifically, the following violations apply:

1. SECONDARY CONTAINMENT WITH LEACHATE WITHDRAWAL SYSTEM – DCP's pits do not have secondary containment and

leachate withdrawal systems. This violates Part 111, Rule 306 and 40 CFR, Section 265.196.

2. DAILY INSPECTION AROUND THE TANKS – DCP does not have a method to inspect the outside of the in-ground tanks for leaks. This violates Part 111, Rule 306(1) and 40 CFR, Section 265.195(a)(4).
3. LEACHATE REMOVAL SYSTEM – DCP does not have a leachate removal system for the in-ground tanks. This violates Part 111, Rule 615 and 40 CFR, Section 265.193.
4. EXISTING TANK SYSTEMS – Tanks with documentation that they were put into service before July 14, 1986, must have an assessment made and must be certified by an independent engineer. This violates Part 111 Rule 615 and 40 CFR, Section 265.191.
5. NEW TANK SYSTEMS – DCP's tanks that were put into service after July 14, 1986, and do not have secondary containment and detection, which violates the requirements in Part 111, Rule 306(1) and 40 CFR, Section 265.193(a)(1), (3), and (4).
6. 24 HOUR LEAK DETECTION EQUIPMENT – DCP does not have a leak detection system designed to detect leaks within 24 hours. This violates Part 111, Rule 306(1) and 40 CFR, Section 265.193(c)(3).
7. REMOVAL OF LEACHATE WITHIN 24 HOURS – DCP does not have a system to remove leaks in the secondary containment that is sloped/drained and all liquid is removed within 24 hours. This violates 111, Rule 306(1) and 40 CFR Section 265.193(c)(4).
8. NEW TANK ASSESSMENT – Tanks put into place after July 14, 1986, must have a written assessment that was reviewed and certified (RCRA, Section 270.11(d)) by an independent qualified registered profession engineer, including design standards and considerations and hazard characteristics. (Part 111, Rule 306 and 40 CFR, Sections 265.192(a)(1), (2), and (5))

Ancillary equipment and piping must have secondary containment, and it must have tightness (leak detection) testing in accordance with 40 CFR, Sections 265.192(d) and 265.193(f). For your convenience, a Hazardous Waste Tank Inspection form is attached.

These violations are subject to the FACD, stipulated penalties, as stated in Section 5.2(a) and Section 16.2. Stipulated penalties from this VN will be addressed under separate cover. DCP must take immediate action to achieve and maintain compliance with Part 111, RCRA, and the FACD. DCP must reply to this letter by July 25, 2016,

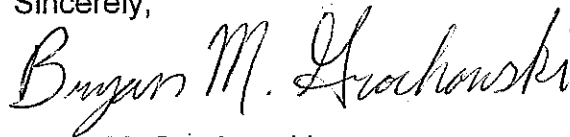
providing documentation to this office regarding those actions taken or planned to be taken to correct the violations listed above.

Your response may include additional information relevant to the violations observed for evaluation. At a minimum, your response should explain the cause of the violations, the actions taken to correct the violations, steps being taken to prevent reoccurrence of the violations, and the duration of the violations, including whether the violations are ongoing. If the violations are not resolved by the date of your response, your response should include a work plan that describes what equipment will be installed, procedures that will be implemented, processes or process equipment that will be shut down, or other actions that will be taken and by what dates these actions will take place to resolve the violations. The OWMRP will evaluate your response, determine DCP's compliance status at the above-referenced location, and notify you of this determination.

Compliance with the terms of this VN does not relieve DCP of any liability, past or present, from failure to meet the conditions specified in Part 111, RCRA and the FACD. This VN does not preclude, nor limit, the DEQ's ability to initiate any other enforcement action under state or federal law, as deemed appropriate.

We anticipate and appreciate your cooperation in resolving this matter. If you have any questions, please feel free to contact me at the telephone number below or by e-mail at Grochowskib@michigan.gov.

Sincerely,



Bryan M. Grochowski
Senior Environmental Quality Analyst
Lansing District Office
Office of Waste Management
and Radiological Protection
517-614-7448

Enclosure

cc: Mr. Todd C. Fracassi, Pepper Hamilton, LLP
Mr. Jim Colmer, BB&E
Ms. Wendi Willis, BB&E
Mr. Richard Kuhl, Department of the Attorney General
Mr. John Craig, DEQ
Mr. Larry Bean, DEQ